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Acacia Communications, Inc.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ViaSat, Inc.,
a Delaware corporation,

Plaintiff
and Counter Defendant,

v.

Acacia Communications, Inc.,
a Delaware corporation,

Defendant
and Counter Claimant,

) Case No.: 3:16-cv-00463-BEN-JMA
)
) **Joint Motion to Modify Previous**
) **Scheduling Orders**
)
)
) Dist. Judge: Hon. Roger T. Benitez
) Hon. Magistrate Jan M. Adler
)
)
) Case Initiated: January 21, 2016
)
)
)
)

1 Plaintiff and counterclaim defendant ViaSat, Inc. (“ViaSat”) and defendant
 2 and counterclaimant Acacia Communications, Inc. (“Acacia”) jointly move the Court
 3 to modify the August 31, 2016, Scheduling Order (Doc. 26), the February 27, 2017,
 4 Order Granting Joint Motion to Modify Scheduling Order (Doc. 48), and the August
 5 9, 2017, Order Granting Joint Motion to Modify Scheduling Order (Doc. 59).

6 Good cause exists for the parties’ proposed modifications to the scheduling
 7 order (Doc. 59). Since this Court’s entry of the current Scheduling Order,
 8 unanticipated difficulties related to witness availability have arisen that have delayed
 9 key depositions under both Rule 30(b)(1) and Rule 30(b)(6), making it impossible for
 10 the parties to complete their noticed depositions until October—after the current
 11 deadline for opening expert reports. These unanticipated difficulties include a
 12 medical emergency afflicting one deponent that has delayed a key Rule 30(b)(6)
 13 deposition by more than three weeks. In addition, ViaSat and Acacia have recently
 14 agreed to a schedule for the deponents subject to Joint Motion for Determination of
 15 Discovery Dispute No. 2, decided by this Court on August 31, 2017 (Doc. No. 63).
 16 As a result of these developments, under the current schedule opening expert
 17 reports would not be reasonably complete, and would require substantial
 18 supplementation, in turn requiring adjustment to the calendar for expert depositions.

19 The parties have worked together to minimize adjustments to the schedule,
 20 while still allowing sufficient time to complete discovery. The parties’ proposed
 21 modified schedule, set forth below, would still conclude both fact and expert
 22 discovery in 2017, and would delay the final pretrial conference by only six weeks.

23 Therefore, the parties respectfully request that the Court issue an amended
 24 scheduling order extending the discovery and pretrial dates as follows:

25 1. Completion of all noticed or subpoenaed depositions shall be
 26 continued from August 31, 2017, to October 13, 2017.

2. Compliance with the disclosure provisions in Federal Rules of Civil Procedure 26(a)(2)(A) and (B) shall be continued from September 22, 2017, to October 27, 2017.

3. Disclosure regarding contradictory or rebuttal evidence under Federal Rules of Civil Procedure 26(a)(2)(D) and 26(e) shall be continued from October 20, 2017, to November 17, 2017.

4. Completion of all expert discovery shall be continued from November 10, 2017, to December 15, 2017

5. The filing deadline of all other pretrial motions shall be continued from November 30, 2017, to February 2, 2018.

6. The Mandatory Settlement Conference shall be continued from February 1, 2018, to approximately March 16, 2018, or a similar date determined by the Court.

7. The pretrial disclosure requirements of Federal Rule of Civil Procedure 26(a)(3) shall be continued from February 19, 2018, to April 6, 2018.

8. Compliance with Civil Local Rule 16.1(f)(4) shall be continued from February 26, 2018, to April 13, 2018.

9. Preparation of the pretrial order and compliance with Civil Local Rule 16.1(f) shall be continued from March 5, 2018, to April 20, 2018.

10. Preparation, service, and lodging of the Proposed Final Pretrial Conference Order shall be continued from March 12, 2018, to April 27, 2018.

11. The final Pretrial Conference shall be continued from March 19, 2018, to approximately May 4, 2018, or a similar date determined by the Court.

Dated: September 8, 2017

FITZGERALD KNAIER LLP

By: s/ Kenneth M. Fitzgerald
Kenneth M. Fitzgerald, Esq.
Keith M. Cochran, Esq.

1 Dated: September 8, 2017

WARREN LEX LLP

2 By: s/ Matthew S. Warren

3 Matthew S. Warren

4 Patrick M. Shields

Attorneys for Plaintiff and Counter

5 Defendant ViaSat, Inc.

6
7 Dated: September 8, 2017

WOLF, GREENFIELD & SACKS, P.C.

8 By: s/ Hunter D. Keeton

9 Michael A. Albert

Hunter D. Keeton

10 Attorneys for Defendant and

11 Counter Claimant Acacia

Communications, Inc.

SIGNATURE CERTIFICATION

Pursuant to Section 2(f)(4) of the Electronic Case Filing Administrative Policies and Procedures Manual, I hereby certify that the content of this document is acceptable to Hunter D. Keeton, Esq., and I have obtained his authorization to affix his electronic signature to this document.

Dated: September 8, 2017

WARREN LEX LLP

By: s/ Matthew S. Warren

Matthew S. Warren

Patrick M. Shields

Attorneys for Plaintiff and Counter
Defendant ViaSat, Inc.

CERTIFICATE OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to this action. My business address is Warren Lex LLP, 2261 Market Street, No. 606, San Francisco, California, 94114.

On September 8, 2017, I served the foregoing document by CM/ECF notice of electronic filing through this Court's electronic transmission facilities by hyperlink to the parties and counsel registered as CM/ECF Users.

I declare under penalty of perjury that the foregoing is true and correct.

By: s/ Matthew S. Warren
Matthew S. Warren